

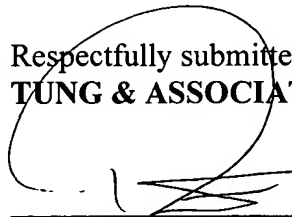
**REMARKS**

In response to a restriction requirement mailed by the Examiner on January 11, 2005, the Applicants hereby elect with traverse, the prosecution of Group I, device claims 1-11.

The applicants respectfully traverse the restriction requirement for the following reasons. The Examiner contended that "In the instant case, the product as claimed can be made by another and materially different process, such as one that does not include blanket depositing the first and second IMD layers over the first capacitor structure and the second IMD structure, respectively." The applicants respectfully submit that, as clearly stated in claim 12, in order to arrive at the present invention device structure, the method step of "blanket depositing a first IMD layer over the first capacitor structure, and then forming at least one first metal filled via interconnect in electrical communication with the first lower electrode and at least one second metal filled via interconnect in electrical communication with the first upper electrode" is necessary. The same applies to the step of forming a second MIM capacitor structure. The applicants therefore respectfully submit that the present invention structure cannot be formed by the method alleged by the examiner.

The withdrawal of the restriction requirement is respectfully requested of the Examiner. The simultaneous examination of Group II, method claims 12-21, with device claims is further respectfully requested of the Examiner.

Respectfully submitted,  
**TUNG & ASSOCIATES**



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